

**STATE OF MICHIGAN**

**BEFORE THE JUDICIAL TENURE COMMISSION**

**COMPLAINT AGAINST:**

**HON. JACK R. JELSEMA**  
**Judge, 62A District Court**  
**Wyoming, MI 49509**

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**FORMAL COMPLAINT NO. 67**

**DECISION AND RECOMMENDATION**  
**FOR ORDER OF DISCIPLINE**

At a session of the Michigan Judicial  
Tenure Commission held on the \_\_\_\_  
day of \_\_\_\_\_, 2001, at which the  
following Commissioners were

PRESENT: Hon. William B. Murphy  
Henry Baskin, Esq.  
Carole L. Chiamp, Esq.  
Hon. Theresa Doss  
Hon. Barry M. Grant  
Hon. Pamela R. Harwood  
Hon. James C. Kingsley  
Peter B. Fletcher  
James Mick Middaugh

Pursuant to MCR 9.221(C), with Respondent's consent, which  
appears below, the Judicial Tenure Commission of the State of Michigan  
("Commission"), files this Decision and Recommendation for Order of Discipline.

The Commission makes the following findings of fact and  
conclusions of law:

- 1) Respondent is now, and was, at all times mentioned, a judge of the 62A District Court on assignment to the 17<sup>th</sup> Judicial Circuit in Kent County.
- 2) On November 4, 1985, a judgment of divorce was entered in *Rosema v Rosema*, 84-52548-DM. By terms of that judgment, primary physical custody of the children was awarded to the plaintiff mother with the father ordered to pay child support and alimony.
- 3) In December 1991, the plaintiff mother petitioned the 17<sup>th</sup> Judicial Circuit Court to modify child support. The matter was eventually transferred to Respondent for decision.
- 4) In May 1993, Respondent entered an order which terminated payment of alimony and modified payment of child support.
- 5) On September 26, 1995, the Michigan Court of Appeals affirmed Respondent's order of May 1993.
- 6) On October 29, 1996, the Michigan Supreme Court vacated the judgment of the Court of Appeals and remanded the case for recomputation of child support. The Supreme Court ordered that Respondent either effect the parties' 1985 agreement that the childrens' father pay a substantial portion of his income in excess of applicable child support guidelines for his children or provide "expanded findings of fact and conclusions of law in support of a different dispositional ruling."
- 7) After remand from the Supreme Court, the parties submitted briefs and Respondent held a hearing. On July 21, 1998,

Respondent issued a written opinion interpreting the Supreme Court's order.

- 8) After exchange of financial information, obtaining of prior child support guidelines, and review of documents, counsel for plaintiff prepared a proposed order and submitted it under MCR 2.602(B)(3), the so-called 7-day rule. Counsel for the former husband objected to the proposed order.
- 9) Respondent heard arguments regarding the propriety of the proposed order and took the matter under advisement. Respondent rendered a decision February 7, 2000, approximately 11 months after the hearing and more than three years after remand from the Supreme Court.
- 10) Respondent's conduct, as described above in paragraphs 1-9, constitutes:
  - a. Misconduct in office, as defined by the Michigan Constitution of 1963, Article VI, § 30, as amended, and MCR 9.205;
  - b. Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, Article VI, §30, as amended, and MCR 9.205;
  - c. Irresponsible or improper conduct which erodes public confidence in the judiciary, contrary to the Code of Judicial Conduct, Canon 2A;
  - d. Conduct involving impropriety and the appearance of impropriety, contrary to the Code of Judicial Conduct, Canon 2A;

- e. Persistent failure to perform judicial duties or neglect in the performance of your judicial duties, contrary to MCR 9.205(C)(2) and (5);
- f. Failure to dispose promptly of the business of the court in violation of the Code of Judicial Conduct, Canon 3A(5); and
- g. Conduct violative of MCR 9.104(1) and (2) in that such conduct:
  - is prejudicial to the proper administration of justice; and
  - exposes the legal profession or the courts to obloquy, contempt, censure or reproach.

- 11) On February 14, 2000, the Commission invited Respondent's comments to Grievance No. 99-12551. Respondent neither submitted a reply nor requested additional time to respond.
- 12) On May 3, 2000, the Commission again provided Respondent with a copy of the grievance and requested his comment to Grievance No. 99-12551. Respondent was asked to respond by Friday, May 19, 2000. Respondent neither submitted a reply nor requested additional time to respond.
- 13) On June 22, 2000, Respondent was sent a 28-day letter inviting his comment to Grievance No. 99-12551, pursuant to MCR 9.207(C).
- 14) On September 11, 2000, Respondent was sent a second 28-day letter with respect to his failure or refusal to reply to prior

communications from the Commission concerning Grievance No. 99-12551. Respondent neither submitted a reply nor requested additional time to respond.

15) Respondent's conduct, as described above in paragraphs 11-14, constitutes:

- a. Misconduct in office as defined by the Michigan Constitution of 1963, Article VI, § 30 as amended, and MCR 9.205;
- b. Conduct clearly prejudicial to the administration of justice as defined by the Michigan Constitution of 1963; Article VI, § 30, as amended, and MCR 9.205;
- c. Irresponsible or improper conduct which erodes public confidence in the judiciary, contrary to the Code of Judicial Conduct, Canon 2A;
- d. Conduct involving impropriety and the appearance of impropriety, contrary to the Code of Judicial Conduct, Canon 2A;
- e. Failure to cooperate with the Commission during a preliminary investigation, contrary to MCR 9.213(B); and
- f. Conduct violative of MCR 9.104(1) and (2), in that such conduct:

is prejudicial to the proper administration of justice; and

exposes the legal profession or the courts to obloquy, contempt, censure or reproach.

- 16) Respondent presided over *Engman v Engman*, No. 95-1170-DO, a divorce case.
- 17) On a regular basis, Respondent persistently failed to act or was persistently neglectful in performance of his duties. Such omissions or neglect included failure to timely decide motions or promptly enter orders after matters were decided by the court.
- 18) Respondent's conduct, as described above in paragraphs 16-17, constitutes:
  - a) Misconduct in office, as defined by the Michigan Constitution of 1963, Article VI, § 30, as amended, and MCR 9.205;
  - b) Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, Article VI, § 30, as amended, and MCR 9.205;
  - c) Irresponsible or improper conduct which erodes public confidence in the judiciary, contrary to the Code of Judicial Conduct, Canon 2A;
  - d) Conduct involving impropriety and the appearance of impropriety, contrary to the Code of Judicial Conduct, Canon 2A;
  - e) Persistent failure to perform judicial duties or neglect in the performance of your judicial duties, contrary to MCR 9.205(C)(2) and (5);
  - f) Failure to dispose promptly of the business of the court in violation of the Code of Judicial Conduct, Canon 3A(5);

- g) Conduct violative of MCR 9.104(1) and (2) in that such conduct:

is prejudicial to the proper administration of justice; and

exposes the legal profession or the courts to obloquy, contempt, censure or reproach.

- 19) On August 24, 2000, the Commission invited Respondent's comments to Grievance No. 00-12699. Respondent neither submitted a reply nor requested additional time to respond.
- 20) On September 11, 2000, Respondent was sent a 28-day letter, inviting his comment to Grievance No. 00-12699. Respondent neither submitted a reply nor requested additional time to respond.
- 21) Respondent's conduct, as described above in paragraphs 19-20, constitutes:
- (a) Misconduct in office, as defined by the Michigan Constitution of 1963, Art. VI, § 30, as amended, and MCR 9.205;
  - (b) Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, Art. VI, § 30, as amended, and MCR 9.205;
  - (c) Irresponsible or improper conduct which erodes public confidence in the judiciary, contrary to the Code of Judicial Conduct, Canon 2A;

- (d) Conduct involving impropriety and the appearance of impropriety, contrary to the Code of Judicial Conduct, Canon 2A;
- (e) Failure to cooperate with the Commission during a preliminary investigation, contrary to MCR 9.213(B); and
- (f) Conduct violative of MCR 9.104(1) and (2), in that such conduct:
  - is prejudicial to the proper administration of justice; and
  - exposes the legal profession or the courts to obloquy, contempt, censure or reproach.

- 22) Should the Supreme Court adopt the Commission's Decision and Recommendation for Order of Discipline and enter an Order of Discipline as agreed by the parties, the Commission will dismiss all matters involving Respondent which are pending before the Commission as of the date of the Decision and Recommendation.

### **MITIGATING CONSIDERATIONS**

Respondent has served on the bench for approximately 21 years. He has not been the subject of public disciplinary action during that period.

Respondent expressed sincere regrets for his conduct in a meeting with a Commission sub-committee. In agreeing to be publicly disciplined, Respondent assures both this Court, the Commission and the public that he



understands the gravity of his conduct and makes a solemn commitment to avoid the unwarranted delay, inaction and failure to timely act which gave rise to these proceedings.

**WHEREFORE, IT IS RECOMMENDED** that the Supreme Court of the State of Michigan file an opinion and judgment publicly censuring Respondent for his acknowledged misconduct.

STATE OF MICHIGAN  
JUDICIAL TENURE COMMISSION

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HON. WILLIAM B. MURPHY  
CHAIRPERSON

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HENRY BASKIN, ESQ.

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HON. PAMELA R. HARWOOD

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CAROLE L. CHIAMP, ESQ.

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HON. JAMES C. KINGSLEY

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HON. THERESA DOSS

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PETER B. FLETCHER

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HON. BARRY M. GRANT

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JAMES MICK MIDDAUGH